

INSTRUCTIONS: HOW TO ASK THE COURT TO APPOINT A TEMPORARY CONSERVATOR IN AN EMERGENCY

Introduction

You can find more information about conservatorship on the court's self-help website at www.courts.alaska.gov/shc/guardian-conservator/index.htm. You can find all of the court forms referenced in these instructions at www.courts.alaska.gov/forms/index.htm. You may also get paper copies of court forms from your local court clerk.

Step-by-Step Instructions to File for Emergency Conservatorship

Step 1. Before filing an *Emergency Petition*, you **must** first file a regular petition. For an adult, you may use any one of the following, whichever is most appropriate to the respondent's situation:

- [PG-100](#), *Petition for Appointment of a Full Guardian for an Adult*
- [PG-103](#), *Petition for Appointment of a Partial Guardian for an Adult*
- [PG-104](#), *Petition for Appointment of a Conservator for an Adult*

Instructions to fill out and file these petitions are in form [PG-505](#).

The court system does not currently have a petition form for requesting appointment of a conservator for a minor. You will have to create your own petition for this.

You can file both the regular petition and the emergency petition at the same time.

Step 2. Fill out *Emergency Petition for Appointment of a Temporary Conservator* ([PG-102](#)). The paragraphs below explain certain sections of this form in more detail.

- Fill in the top of the form the same as you did on the regular petition.
- Case Number. If you are filing this emergency petition at the same time you file the regular petition, leave the "CASE NO." line blank. If you are filing this emergency petition later, write the case number that the court assigned to the regular petition.
- Section 4. Explain where the respondent is currently located. Describe what the place is (for example: "at his apartment" or "at her daughter's house"), and then give the address and telephone number of that place.
- Section 5. Check at least one box. Describe the money or property that is in danger of being wasted or dissipated (used up), or the source of the money that is needed for support.¹ Be as specific and complete as possible.

To get a temporary (emergency) appointment, you must show that the money is needed immediately for support, care, or welfare of the respondent's self or other persons the respondent has a legal duty to support, or that the respondent's money or property is in immediate danger of being lost or used up.

- Section 6. Explain why the respondent is not able to manage or obtain the money or property on the respondent's own.² Be as specific and complete as possible.

¹ AS 13.26.445.

² Authorized reasons include: "mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, fraud, confinement, detention by a foreign power, or disappearance." AS 13.26.401(2)(A). A person may also need a conservator because of the disabilities of minority (being under age 18). AS 13.26.401(1).

- f. Section 8. You can nominate the same person or agency you nominated in the regular petition, or it can be a different person or agency just for the temporary conservatorship.
- g. Sign and date in the area just before the "Verification" section.
- h. If you are filing in person, wait to sign the Verification section until you are at the court. Bring a photo ID with you. The court clerk can notarize your petition for free. If you are mailing the emergency petition to the court, fill out the Verification section (in front of a notary public) before you mail it.
- i. Certificate of Service on page 3.

If you are filing this emergency petition at the same time as the regular petition to open the case, then check the first box and sign at the bottom.

If the conservatorship case is already open, then before you file the emergency petition in court, you must make a reasonable effort to notify the respondent, the respondent's attorney, the court visitor (if one is appointed), and any other persons the court ordered you to notify, that you are going to file this petition. Because it is an emergency, you may use extraordinary service methods, such as a phone call, instead of mail. Check the second box on this page and explain the efforts you made to give notice, then sign at the bottom.

Step 3. Make a copy of the emergency petition for yourself to keep. File the original emergency petition (either in person or by mail) at the same court where you filed the regular petition. There is no separate filing fee for the emergency petition. It is covered by the filing fee you paid (or will pay) for the regular petition.

Step 4. Notice of Hearing.

The court clerk will schedule a hearing on your petition to be held within 72 hours after you file it. The clerk will send or give notice of the hearing to you, the respondent, the respondent's attorney, the court visitor (if one is appointed), the proposed conservator, and any other interested persons as ordered by the court.

Step 5. Court Hearing.

The respondent has the right to be present at the hearing. The respondent can participate in the hearing by telephone if that is more convenient for the respondent. Usually, these hearings are closed to the public. At the hearing, the respondent has the right to present evidence and to ask questions of any witnesses.

As the petitioner, you must present evidence that proves BOTH (1) and (2) below:

- (1) The respondent needs a temporary conservator to either
 - (a) prevent the waste or dissipation (using up) of the respondent's money or property, or
 - (b) obtain funds that are needed for the immediate support, care, and welfare of the respondent (or other persons the respondent is required to support),

AND

- (2) The respondent is not able to protect the respondent's own funds or property, or is not able to obtain the funds that are needed to support the respondent's self (or other persons the respondent is required to support).

The statute that requires this, AS 13.26.445, is printed on the next page.

Step 6. When the Appointment Ends.

If the judge signs an emergency appointment order, the order will be temporary. It will expire when the court appoints a regular conservator (or a full or partial guardian with conservator powers), or if the court dismisses the regular petition for conservator or guardian appointment.

**Alaska Statute 13.26.445
Temporary Conservators**

(a) If, during the pendency of an initial petition for conservatorship, it appears that the respondent is in need of a protective order to protect the respondent against waste or dissipation of funds or property, or to obtain funds that are needed for the immediate support, care, and welfare of the respondent or persons entitled to be supported by the respondent, and the respondent is not capable of protecting the respondent's funds or property or obtaining the funds that are needed to support the respondent or persons whom the respondent is required to support, the petitioner may request the appointment of a temporary conservator to authorize the protection or to obtain the necessary funds. The request must state the reasons and factual basis for the request. The petitioner shall immediately file the request with the court and serve copies on the respondent and the respondent's attorney and other persons as ordered by the court. The court shall appoint an attorney for a respondent who is unrepresented to be at the hearing and conduct a hearing within 72 hours after the filing.

(b) If the court determines that a temporary conservator should be appointed, it shall make the appointment and grant to the temporary conservator only the authority that is least restrictive upon the liberty of the respondent and that enables the temporary conservator to provide the protection or authority necessary to protect the respondent from waste or dissipation of funds or property or to obtain the funds necessary for support.

(c) The temporary conservatorship expires at the time of the appointment of a full or partial conservator or on the dismissal of the petition for conservatorship.

Alternatives to Temporary Conservatorship

Two alternative procedures that can be used in case of financial emergencies are:

1. **Ex Parte Financial Protective Orders.** Under AS 13.26.450, you may file a protective order on behalf of the person who needs protection against another person or persons (or even a business or other group). This procedure can be used when you think the other person (or business or group) is committing fraud against the person to be protected. It can prohibit contact with the protected person and overrule powers of attorney, among other things. More information and forms for this process are available at <http://www.courts.alaska.gov/forms/index.htm#financial-abuse>.
2. **Authorization of Single Transactions.** Under AS 13.26.440, the court can order a specific money transfer, loan, sale, entry into contract, or other financial transaction directly. This procedure may be suitable when a limited solution will take care of the immediate problem (for example: to complete the sale of a home, to arrange and pay for a specific service, or to transfer money from one account into another), and a conservator is not needed for ongoing financial management. You may use *Petition for Authorization of a Single Transaction* (form [PG-106](#)) to request this type of order. If the transaction must occur quickly, you can file form [PG-108](#), *Motion for Hearing on Shortened Time under Probate Rule 14.1*, to ask for a faster hearing.